



New South Wales

Industrial Relations Amendment (Non-operative Awards) Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Industrial Relations Act 1996* (*the principal Act*) to protect certain awards that have no current application to any employers or employees. This Bill provides that such awards cannot be rescinded and may only be amended to give effect to National or State decisions.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 **Amendment of Industrial Relations Act 1996 No 17**

Schedule 1 [13] inserts a definition of *non-operative award* into the Dictionary to the principal Act. *Non-operative award* is defined as an award that is declared, under

section 19, 20 or 20A of the principal Act, to be an award that does not have any current application to any employer or employee.

Schedule 1 [8] inserts proposed section 20A. The proposed section provides that the Commission may, if satisfied that an award does not currently apply to any employer or employee, make a declaration to that effect. The proposed section also provides that the Industrial Registrar is to keep a register of non-operative awards. **Schedule 1 [6] and [7]** make similar amendments that allow for a declaration that an award does not currently apply to any employee or employer as a result of a review of awards under section 19 of the principal Act or as a result of the consolidation of awards under section 20 of that Act.

Schedule 1 [1] amends section 17 of the principal Act to provide that a non-operative award may not be varied or rescinded under that section. However, **Schedule 1 [10]** amends section 52 of the principal Act to provide that the Commission is to vary non-operative awards to give effect to certain National or State decisions that generally affect, or are likely to generally affect, the conditions of employment of employees in New South Wales.

Schedule 1 [11] amends Schedule 4 to the principal Act to enable the making of regulations containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [12] provides that an award that was in force on the date that this Bill was introduced into the Legislative Assembly may be declared to be a non-operative award, and that any purported rescission or variation of such an award between that date and the date of assent to the proposed Act, is of no effect.

Schedule 1 [2]–[5] and [9] make consequential amendments.